

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 11/21/2016
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 PHOENIX LIGHT SF LIMITED, in its own right :  
 and the right of Blue Heron Funding V Ltd., Blue :  
 Heron Funding VI Ltd., Blue Heron Funding VII :  
 Ltd., Kleros Preferred Funding V PLC, Silver Elms :  
 CDO PLC, Silver Elms CDO II Limited, C-BASS :  
 CBO XVII Ltd., and C-BASS CBO XIV Ltd., and :  
 each of BLUE HERON FUNDING V LTD., BLUE :  
 HERON FUNDING VI LTD., BLUE HERON :  
 FUNDING VII LTD., KLEROS PREFERRED :  
 FUNDING V PLC, SILVER ELMS CDO PLC, :  
 SILVER ELMS CDO II LIMITED, C-BASS CBO :  
 XVII LTD and C-BASS CBO XIV LTD, in their :  
 own right, :

Plaintiffs, :

-against- :

THE BANK OF NEW YORK MELLON, as :  
 Trustee, :

Defendant. :

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14-CV-10104 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS on October 28, 2016, the Court set the summary judgment briefing schedule in this case and ordered that Defendant must move for summary judgment on or before November 29, 2016 [Dkt. 114];

WHEREAS on November 4, 2016, Plaintiffs moved for leave to amend the Third Amended Complaint [Dkt. 117];

WHEREAS if the Court grants Plaintiffs' motion for leave to amend, then the Court will need to re-open discovery in this case with respect to the FNLC Trust 2005-1; and

WHEREAS there is no reason to delay summary judgment briefing on the trusts that are not the FNLC Trust 2005-1 even if discovery is re-opened with respect to the FNLC Trust 2005-1;

WHEREAS on November 18, 2016, Defendant filed a letter regarding Plaintiffs' citation of *Quadrant Structured Products Co. v. Vertin*, 16 N.E.3d 1165 (N.Y. 2014) in Plaintiffs' reply brief in the motion for leave to amend and stated that Defendant "stand[s] ready to address why *Quadrant* is inapposite" through a sur-reply [Dkt. 124];


WHEREAS on November 21, 2016, Plaintiffs requested that they be permitted to respond to Defendant's sur-reply, if the Court permits Defendant to file a sur-reply [Dkt. 125];

IT IS HEREBY ORDERED THAT summary judgment briefing will proceed according to the schedule set forth in the October 28 Order as to all trusts other than the FNLC Trust 2005-1;

IT IS FURTHER ORDERED THAT Defendant may file a sur-reply of not more than three pages addressing *Quadrant* on or before November 28, 2016. Plaintiffs may file a response of not more than three pages to Defendant's sur-reply on or before November 30, 2016.

**SO ORDERED.**

**Date: November 21, 2016**  
**New York, New York**

  
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**VALERIE CAPRONI**  
**United States District Judge**